

KILPATRICK TOWNSEND & STOCKTON LLP
Kollin J. Zimmermann (CA Bar No. 273092)
KZimmermann@ktslaw.com
Kristine L. Craig (CA Bar No. 328736)
kcraig@ktslaw.com
Gabriel M. Ross (CA Bar No. 358450)
gross@ktslaw.com
1801 Century Park East Suite 2300
Los Angeles, CA 90067
Telephone: 310-248-3830
Facsimile: 310-860-0363

DUFF LAW PLLC
Anderson J. Duff (*pro hac vice* granted)
ajd@hoganduff.com
353 Ocean Avenue, Suite 4E
New York, New York 11226
Telephone: 646-450-3607

Attorneys for Plaintiff, Ramdon Corp.

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

RAMDON CORP., a Delaware corporation,
Plaintiff,

v.

YAMA ELECTRONICS LLC, a California
limited liability company; YAMA
ELECTRONICS, INC., a California
corporation; and YAMA MOHAMMAD, an
individual in California,

Defendants.

Case No.: 5:25-cv-0243-SVK

**JOINT CASE MANAGEMENT
STATEMENT & [PROPOSED] ORDER**

The parties in the above-entitled action jointly submit this Joint Case Management Statement and Proposed Order pursuant to the Standing Order for All Judges of the Northern District of California and Civil Local Rule 16-9. The undersigned counsel certify that counsel for the Parties conferred on May 20, 2025 regarding the issues contained herein.

1. Jurisdiction & Service

This Court has subject matter jurisdiction over all claims asserted in the above-captioned matter pursuant to 28 U.S.C. §§ 1331, 1338, and 1367. All Defendants have been served and there are no issues regarding persona jurisdiction or venue.

2. Facts

Plaintiff's Statement: Plaintiff sells pressurized gas for use in whippers for cream under its trademark EXOTICWHIP and featuring a jungle motif trade dress and has used its EXOTICWHIP trademark and jungle motif trade dress on such products in the United States since at least as early as March 2021. Plaintiff owns federal trademark Registration No. 7,158,245 for EXOTICWHIP for pressurized gas containers used in whippers for cream. In early 2024, Defendant Yama Mohammad approached Plaintiff and stated that he wanted to purchase Plaintiff's EXOTICWHIP product at wholesale. Plaintiff alleges that Defendant Mohammad's representations were a ruse to gather information about Plaintiff's business that Defendants used to produce and sell products under a counterfeit trademark, EXOTICWHIP PRO, and featuring a trade dress that copied Plaintiff's jungle motif trade dress to Plaintiff's customers. In June 2024, Plaintiff became aware that Defendants' alleged counterfeit EXOTICWHIP PRO products were available at retailers that also carried Plaintiff's EXOTICWHIP products. On August 13, 2024, Plaintiff's counsel sent a cease and desist letter describing Plaintiff's trademark rights and demanding that Defendants cease selling competing products under EXOTICWHIP PRO and asking for information sufficient to determine all revenue and profits generated by Defendants' sale of the alleged counterfeit product. On October 11, 2024 Plaintiff's counsel received an affidavit of compliance signed by Defendant Mohammad stating that Defendants had: (a) "ceased all sales activities of the offending products . . . including all manufacture, importation, marketing, sale, and distribution of any products featuring the mark EXOTICWHIPPRO or any other mark confusingly similar to EXOTICWHP"; (b) "caused to be removed all products at issue from the shelves of any wholesalers, distributors, retailers, or other

1 third parties”; (c) halted directly or indirectly from using, advertising or selling any and all
2 EXOTICWHIPPRO products throughout the United States, including California that bears the
3 EXOTICWHIPPRO feature”; and (d) “destroyed any remaining inventory of the products at issue . .
4 . .” In early 2025, Plaintiff’s distributors began reporting that Defendants’ alleged counterfeit
5 products were once again available for sale next to Plaintiff’s EXOTICWHIP products. Plaintiff
6 alleges that Defendants intentionally resold counterfeit product bearing EXOTICWHIP PRO and an
7 infringing trade dress after certifying that it would not do so. Defendants assert that they did not.

8
9 Defendant Mohammad’s October 11, 2024 affidavit of compliance contained sales figures
10 for the alleged counterfeit products. The parties are in disagreement concerning the calculation of
11 Defendants’ profit from the sale of alleged counterfeit product.

12 Defendants’ Statement: Plaintiff’s trademark is invalid because the products it sells under
13 the mark are illegal and dangerous. Plaintiff’s claims are barred by the doctrines of unlawful use in
14 commerce, trademark abandonment, unclean hands, and because the asserted marks are void or
15 unenforceable.

16
17 Plaintiff markets and distributes products in violation of applicable laws, and those products
18 pose a significant risk of serious injury or death. Misuse of nitrous oxide, which Plaintiff promotes
19 and sells under the brand at issue in this action, has become an epidemic among young people in the
20 United States. Deaths associated with nitrous oxide misuse have more than doubled between 2019
21 and 2023. The recreational use of nitrous oxide has caused terrible and often permanent injuries,
22 including cognitive impairments such as difficulty with memory, attention, and executive
23 functioning; peripheral nerve damage resulting in numbness, tingling, and weakness; problems with
24 coordination and balance; and spinal cord damage that can lead to paralysis and bowel or bladder
25 dysfunction.

26
27 Although Plaintiff purports to market its products for culinary use, such as for making
28 whipped cream, that representation is a pretext. The overwhelming majority of Plaintiff’s advertising

1 and marketing materials are plainly designed to promote the product for unlawful personal
2 inhalation. These materials include imagery, slogans, and marketing channels that have no
3 meaningful connection to lawful culinary use and instead directly appeal to recreational users in
4 violation of applicable laws and public policy.

5 Importantly, Plaintiff's products also violate the federal Food, Drug, and Cosmetic Act
6 because they constitute mislabeled drugs. Although nitrous oxide has legitimate uses, when nitrous
7 oxide is sold or marketed for recreational inhalation or euphoric effects, it is considered a drug.
8 Products intended for such use that are not approved by the FDA and are sold without adequate
9 directions for use or appropriate warnings are deemed misbranded and illegal. Because Plaintiff
10 markets nitrous oxide for its psychoactive effects under the guise of culinary use, its products are
11 misbranded drugs being sold in violation of federal law.
12

13 Plaintiff also contends that it has suffered a loss of sales as a result of Defendants' conduct.
14 However, all of Defendants' product sales (which have ceased as Defendants no longer sell the
15 accused product) occurred through smoke/vape shops, which primarily sell marijuana paraphernalia
16 and other vape and drug-related accessories. These retail outlets also routinely stock nitrous oxide
17 containers of the type sometimes referred to as "whippits" in drug culture. By Plaintiff claiming it
18 has lost sales due to Defendants' sales in these smoke shops, Plaintiff is acknowledging the non-
19 culinary outlets through which it sells its products, further underscoring the illegality and
20 dangerousness of the conduct in which Plaintiff is engaged.
21

22 By engaging in the unlawful promotion and sale of hazardous, misbranded drug products
23 under the asserted mark, and by using deceptive advertising to falsely imply lawful use while in fact
24 encouraging dangerous and illegal behavior, Plaintiff has acted in bad faith and with unclean hands.
25 Plaintiff has used the mark in connection with illegal conduct and has thereby forfeited any right to
26 enforce it. This conduct supports Defendants' affirmative defenses that Plaintiff's alleged trademarks
27 are void or unenforceable due to unlawful use in commerce, that Plaintiff has abandoned any
28

1 trademark rights by engaging in conduct inconsistent with trademark protection, and that Plaintiff is
2 barred from relief under the doctrine of unclean hands.

3 **3. Legal Issues**

4 Plaintiff alleges and Defendants deny that Defendants' sale of products under the
5 EXOTICWHIP PRO mark and featuring a jungle motif trade dress constitutes trademark
6 infringement pursuant to 15 U.S.C. § 1114, trademark counterfeiting pursuant to 15 U.S.C. §
7 1116(d)(1)(b), trademark and trade dress infringement pursuant to 15 U.S.C. § 1125(a), unfair
8 competition pursuant to 15 U.S.C. § 1125, fraud, and unfair business practices pursuant to Cal. Bus.
9 & Prof. Code § 17200.
10

11 Defendants assert several affirmative defenses and argue that Plaintiff's trademark rights are
12 unenforceable because Plaintiff sells its whip cream chargers intending them for recreational use in
13 violation of the law. Plaintiff disputes this characterization of its business and asserts that its
14 trademark and trade dress rights are enforceable.
15

16 **4. Motions**

17 There are no motions pending. The parties anticipate motions for summary judgment.

18 **5. Amendment of Pleadings**

19 Plaintiff does not anticipate any amendments to the pleadings and propose a deadline of
20 **August 29, 2025** for joinder of any additional parties and filing of motions to amend the pleadings.

21 Defendants anticipate that they may, after conducting further discovery, seek to add a
22 counterclaim for cancellation of the trademark in question based on unlawful use, and/or inequitable
23 conduct in the registration process.
24

25 **6. Evidence Preservation**

26 Counsel for all parties have reviewed the Guidelines Relating to the Discovery of
27 Electronically Stored Information. Counsel for all parties met and conferred pursuant to Fed. R. Civ.
28 P. 26(f) on May 20, 2025.

7. Disclosures

No party has served initial disclosures, which are due **June 3, 2025**, but Defendant Mohammad has disclosed financial information related to the sale of the alleged counterfeit products for the purpose of settlement.

8. Discovery

No discovery has been served or taken as of the date of this filing. The parties do not anticipate needing an e-discovery order and propose the following deadlines related to discovery:

a. Parties shall disclose experts, expert witness summaries, and reports as required by Fed. R. Civ. P. 26(a)(2) by **December 5, 2025**.

b. Parties shall exchange rebuttal expert witness summaries and reports as required by Fed. R. Civ. P. 26(a)(2) by **January 9, 2026**.

c. Fact and Expert discovery shall be completed by **February 6, 2026**.

9. Class Actions

N/A

10. Related Cases

N/A

11. Relief

Plaintiff seeks disgorgement of Defendants' profits from the sale of the alleged counterfeit product and compensatory damages for sales lost by Plaintiff because of Defendants' alleged unlawful acts. Plaintiff also seeks treble damages, Plaintiff's costs and expenses, Plaintiff's reasonable attorneys' fees, and punitive damages.

12. Settlement and ADR

The parties believe that a settlement conference completed on or before **April 10, 2026** would be most likely to facilitate a resolution of this matter.

13. Other References

The parties do not believe this case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

14. Narrowing of Issues

The parties identify the following issues that are most consequential to this case:

- a. **Whether Plaintiff's trademark and trade dress rights are enforceable;**
- and
- b. **The calculation of Plaintiff's profits from the alleged unlawful acts.**

The parties shall produce relevant financial documents, correspondence, and USPTO filings, and, if necessary, serve third-party subpoenas on non-parties in a position to verify or expand upon the information contained therein pursuant to Fed. R. Civ. P. 45. The parties expect to address both issues identified above in motions for summary judgment after the close of discovery.

15. Expedited Trial Procedure

The parties do not believe this is an appropriate case for resolution under the Expedited Trial Procedure of General Order 64.

16. Scheduling

The parties propose the following deadlines:

1.	Joinder of any additional parties and filing of motions to amend the pleadings by	September 29, 2025
2.	Parties shall disclose experts, expert witness summaries, and reports as required by Fed. R. Civ. P. 26(a)(2) by	January 5, 2026
3.	Parties shall exchange rebuttal expert witness summaries and reports as required by Fed. R. Civ. P. 26(a)(2) by	February 9, 2026
4.	Fact and Expert discovery shall be completed by	April 6, 2026

5.	ADR shall be completed by	June 10, 2026
6.	Dispositive motions, including those regarding summary judgment and <i>Daubert</i> , shall be filed by	July 8, 2026
7.	All pretrial motions and memoranda of law, including motions in limine, shall be filed by	November 4, 2026
8.	Pre-trial conference	November 19, 2026
9.	Trial	December 14, 2026

17. Trial

The parties anticipate trying the case before a jury. The parties believe that any such trial should require 5 -7 days.

18. Disclosure of Non-party Interested Entities or Persons

All parties have filed a Certification of Interested Entities or Persons as required by Civil Local Rule 3-15.

- a. Pursuant to Civil L.R. 3-15, Plaintiff Ramdon Corp., by and through its undersigned counsel, certifies that other than the parties themselves, Plaintiff is aware of no persons, associations or persons, firms, partnerships, corporations (including parent corporations) or other entities that (i) have a financial interest in the subject matter in controversy or in a party to the proceeding, or (ii) any other kind of interest in the subject matter or in a party that could be substantially affected by the outcome of this proceeding.
- b. Pursuant to Civil L.R. 3-15, Defendants Yama Electronics LLC, Yama Electronics, Inc., and Yama Mohammad, by and through their undersigned counsel, certify that other than the parties themselves, Defendants are aware of no persons, associations or persons, firms, partnerships, corporations (including parent corporations) or other

1 entities that (i) have a financial interest in the subject matter in controversy or in a
2 party to the proceeding, or (ii) any other kind of interest in the subject matter or in a
3 party that could be substantially affected by the outcome of this proceeding.

4 **19. Professional Conduct**

5 The parties' undersigned counsel have reviewed the Guidelines for Professional Conduct for
6 the Northern District of California.

7 **20. Other**

8 At this time, the parties are unaware of any other information that may facilitate the just,
9 speedy and inexpensive disposition of this matter.
10

11 DATED: May 20, 2025

12 Respectfully submitted,
DUFF LAW PLLC

13 By: /s/ Anderson J. Duff

14 ANDERSON J. DUFF (*PHV*)
15 KOLLIN J. ZIMMERMANN
Attorneys for Plaintiff, Ramdon Corp.

16 DATED: May 20, 2025

17 Respectfully submitted,
DOWNEY BRAND LLP

18 By: /s/ Michael J. Thomas

19 MICHAEL J. THOMAS
20 Attorneys for Defendants,
21 Yama Electronics LLC, Yama Electronics, Inc., and
22 Yama Mohammad
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CASE MANAGEMENT ORDER

The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is approved as the Case Management Order for this case and all parties shall comply with its provisions. [In addition, the Court makes the further orders stated below:]

IT IS SO ORDERED.

Dated:

UNITED STATES DISTRICT/MAGISTRATE JUDGE